

MONTANA LEGISLATIVE HISTORY

Chapter 61 19 99

Bill H 179 S _____ Original bill & history ✓c

H. Committee on Business + Labor

Hearing Date(s) 1-12 ✓c

_____ c

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_____ c

Date Out _____ c

S. Committee on Labor + Employment

Hearing Date(s) 2-11 ✓c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

1/04 Referred to Taxation
 2/12 Hearing
 3/31 Missed Deadline for Revenue Bill Transmittal
 4/07 Tabled in Committee
 Died in Standing Committee

HB 179 Introduced by Sliter

LC0344 Drafter: Maly

Revise Certain Labor Laws Pertaining to Unemployment Benefits;...

By Request of Department of Labor and Industry

12/24	Introduced		
1/04	1st Reading		
1/04	Referred to Business and Labor		
1/04	Fiscal Note Requested		
1/11	Fiscal Note Received		
1/11	Fiscal Note Signed		
1/12	Fiscal Note Printed		
1/12	Hearing		
1/12	Committee Executive Action--Bill Passed as Amended	15	3
1/13	Committee Report--Bill Passed as Amended		
1/15	2nd Reading Passed	76	23
1/16	3rd Reading Passed	77	22
	Transmitted to Senate		
1/27	Referred to Labor and Employment Relations		
2/11	Hearing		
2/12	Committee Executive Action--Bill Concurred	7	2
2/12	Committee Report--Bill Concurred		
3/02	2nd Reading Concurred	48	0
3/03	3rd Reading Concurred	48	2
	Returned to House		
3/03	Sent to Enrolling		
3/04	Returned from Enrolling		
3/06	Signed by Speaker		
3/09	Signed by President		
3/10	Transmitted to Governor		
3/15	Signed by Governor		
3/16	Chapter Number Assigned		
	Chapter Number 61		
	Effective Date: 7/01/1999 - All Sections		

HB 180 Introduced by Soft, et al.

LC0208 Drafter: Niss

Allow the Department of Public Health and Human Services or a Guardian Ad Litem to Petition for Appointment of a Guardian for a Child Found to Be a Youth in Need of Care Either as Part or Not as Part of a Termination of Parental Rights;...

By Request of Department of Public Health and Human Services

12/24 Introduced
 1/04 1st Reading
 1/04 Referred to Judiciary
 1/04 Fiscal Note Requested
 1/11 Fiscal Note Received
 1/11 Fiscal Note Signed

HOUSE BILL NO. 179

INTRODUCED BY SLITER P

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN LABOR LAWS PERTAINING TO UNEMPLOYMENT BENEFITS; PROVIDING FOR WITHHOLDING OF A PORTION OF BENEFITS FROM CERTAIN DELINQUENT TAXPAYERS FOR THE PAYMENT OF FEDERAL TAX OBLIGATIONS; PROVIDING FOR THE SELECTION AND SERVICES OF A SUBSTITUTE MEMBER OF THE BOARD OF LABOR APPEALS; CLARIFYING THE DEFINITION OF AGRICULTURAL LABOR; CLARIFYING THE ELIGIBILITY OF CERTAIN EDUCATIONAL EMPLOYEES FOR UNEMPLOYMENT BENEFITS; SPECIFYING THAT QUALIFYING WORK MUST MEET THE STATUTORY DEFINITION OF EMPLOYMENT; PROVIDING FOR THE WAIVER OF OVERPAYMENTS UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 2-15-1704, 39-51-204, 39-51-301, 39-51-302, 39-51-2108, 39-51-2302, 39-51-2303, 39-51-2304, 39-51-3105, AND 39-51-3206, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Internal revenue levy -- withholding of unemployment benefits to repay federal tax obligations. (1) The internal revenue service may levy against an individual's unemployment benefits if the individual:

(a) is liable for taxes, interest, or penalties owed to the internal revenue service; and
(b) has not paid the taxes, interest, or penalties in subsection (1)(a) within 10 days of receiving a notice and demand for repayment from the internal revenue service.

(2) Pursuant to 26 U.S.C. 6331(h)(2)(c), any amount payable as unemployment benefits may be levied against until the levy is released.

(3) The levy may be implemented electronically by the department and the internal revenue service.

(4) After receiving notice of a levy from the internal revenue service, the department shall deduct and withhold up to 15% from any unemployment benefits payable to the individual owing money to the internal revenue service. The amount withheld must be determined by the internal revenue service in

1 accordance with 26 U.S.C. 6331(h)(2)(c).

2 (5) The department shall pay any amount deducted and withheld pursuant to this section to the
3 internal revenue service on behalf of the individual. Any amount deducted and withheld must be treated
4 as if it were paid to the individual as unemployment benefits and then paid by the individual to the internal
5 revenue service in satisfaction of the individual's federal tax obligations.

6
7 **Section 2.** Section 2-15-1704, MCA, is amended to read:

8 **"2-15-1704. Board of labor appeals -- allocation -- composition -- function -- quasi-judicial. (1)**

9 There is a board of labor appeals.

10 (2) The board is allocated to the department for administrative purposes only as prescribed in
11 2-15-121.

12 (3) The board is composed of three members of the public who are not employees of the state
13 government, appointed by the governor as prescribed in 2-15-124.

14 (4) When a board member is unable to participate in a proceeding before the board, the other two
15 members shall select a substitute member who is not an employee of state government. The substitute
16 member shall participate in the decisions of the proceeding and is entitled to the same compensation and
17 travel expenses as other board members.

18 ~~(4)~~(5) The board is designated as a quasi-judicial board for purposes of 2-15-124."
19

20 **Section 3.** Section 39-51-204, MCA, is amended to read:

21 **"39-51-204. Exclusions from definition of employment. (1)** The term "employment" does not
22 include:

23 (a) domestic or household service in a private home, local college club, or local chapter of a
24 college fraternity or sorority, except as provided in 39-51-202(3). If an employer is otherwise subject to
25 this chapter and has domestic or household service employment, all employees engaged in domestic or
26 household service must be excluded from coverage under this chapter if the employer:

27 (i) does not meet the monetary payment test in any quarter or calendar year, as applicable, for
28 the subject wages attributable to domestic or household service; and

29 (ii) keeps separate books and records to account for the employment of persons in domestic or
30 household service.

(b) service performed by a dependent member of a sole proprietor for whom an exemption may be claimed under 26 U.S.C. 152 or service performed by a sole proprietor's spouse for whom an exemption based on marital status may be claimed by the sole proprietor under 26 U.S.C. 7703;

(c) service performed as a freelance correspondent or newspaper carrier if the person performing the service, or a parent or guardian of the person performing the service in the case of a minor, has acknowledged in writing that the person performing the service and the service are not covered. As used in this subsection:

(i) "freelance correspondent" is a person who submits articles or photographs for publication and is paid by the article or by the photograph; and

(ii) "newspaper carrier" means a person who provides a newspaper with the service of delivering newspapers singly or in bundles. The term does not include an employee of the paper who, incidentally to the employee's main duties, carries or delivers papers.

(d) service performed as a real estate broker or salesperson who is licensed pursuant to Title 37, chapter 51;

(e) service performed by a cosmetologist who is licensed under Title 37, chapter 31, or a barber who is licensed under Title 37, chapter 30, and:

(i) who has acknowledged in writing that the cosmetologist or barber is not covered by unemployment insurance and workers' compensation;

(ii) who contracts with a cosmetology salon, as defined in 37-31-101, or a barbershop, as defined in 37-30-101, which contract must show that the cosmetologist or barber:

(A) is free from all control and direction of the owner in the contract;

(B) receives payment for service from individual clientele; and

(C) leases, rents, or furnishes all of the cosmetologist's or barber's own equipment, skills, or knowledge; and

(iii) whose contract gives rise to an action for breach of contract in the event of contract termination. The existence of a single license for the cosmetology salon or barbershop may not be construed as a lack of freedom from control or direction under this subsection.

(f) casual labor not in the course of an employer's trade or business performed in any calendar quarter, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. "Regularly employed"

1 means that the service is performed during at least 24 days in the same quarter.

2 (g) service performed by sole proprietors, working members of a partnership, members of a
3 member-managed limited liability company that has filed with the secretary of state, or partners in a
4 limited liability partnership that has filed with the secretary of state;

5 (h) service performed for the installation of floor coverings if the installer:

6 (i) bids or negotiates a contract price based upon work performed by the yard or by the job;

7 (ii) is paid upon completion of an agreed-upon portion of the job or after the job is completed;

8 (iii) may perform service for anyone without limitation;

9 (iv) may accept or reject any job;

10 (v) furnishes substantially all tools and equipment necessary to provide the service; and

11 (vi) works under a written contract that:

12 (A) gives rise to a breach of contract action if the installer or any other party fails to perform the
13 contract obligations;

14 (B) states that the installer is not covered by unemployment insurance; and

15 (C) requires the installer to provide a current workers' compensation policy or to obtain an
16 exemption from workers' compensation requirements;

17 (i) service performed as a direct seller as defined by 26 U.S.C. 3508;

18 (j) service performed by a petroleum land professional. As used in this subsection, "petroleum land
19 professional" means a person who:

20 (i) is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or in
21 negotiating a business agreement for the exploration or development of minerals;

22 (ii) is paid for service that is directly related to the completion of a contracted specific task rather
23 than on an hourly wage basis; and

24 (iii) performs all services as an independent contractor pursuant to a written contract.

25 (k) service performed by an ordained, commissioned, or licensed minister of a church in the
26 exercise of the church's ministry or by a member of a religious order in the exercise of duties required by
27 the order;

28 (l) service performed by an individual receiving rehabilitation or remunerative work in a facility
29 conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning
30 capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for

1 individuals who, because of impaired physical or mental capacity, cannot be readily absorbed in the
2 competitive labor market;

3 (m) service performed as part of an unemployment work-relief or work-training program assisted
4 or financed in whole or in part by a federal agency or any agency of a state or political subdivision of the
5 state by an individual receiving work relief or work training;

6 (n) service performed for a state prison or other state correctional or custodial institution by an
7 inmate of that institution;

8 (o) service performed by an individual who is sentenced to perform court-ordered community
9 service or similar work;

10 (p) service performed by elected public officials;

11 (q) agricultural labor, except as provided in 39-51-202(2), (4), or (6). If an employer is otherwise
12 subject to this chapter and has agricultural employment, all employees engaged in agricultural labor must
13 be excluded from coverage under this chapter if the employer:

14 (i) in any quarter or calendar year, as applicable, does not meet either of the tests relating to the
15 monetary amount or number of employees and days worked for the subject wages attributable to
16 agricultural labor; and

17 (ii) keeps separate books and records to account for the employment of persons in agricultural
18 labor.

19 (r) service performed in the employ of any other state or its political subdivisions or of the United
20 States government or of an instrumentality of any other state or states or their political subdivisions or
21 of the United States, except that national banks organized under the national banking law are not entitled
22 to exemption under this subsection and are subject to this chapter the same as state banks, if the service
23 is excluded from employment as defined in section 3306(c)(7) of the Federal Unemployment Tax Act;

24 (s) service in which unemployment insurance is payable under an unemployment insurance system
25 established by an act of congress if the department enters into agreements with the proper agencies
26 under an act of congress and those agreements become effective in the manner prescribed in the
27 Montana Administrative Procedure Act for the adoption of rules, to provide reciprocal treatment to
28 individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to
29 unemployment insurance under an act of congress or who have, after acquiring potential rights to
30 unemployment insurance under the act of congress, acquired rights to benefits under this chapter;

(t) service performed in the employ of a school or university if the service is performed by a student who is enrolled and is regularly attending classes at a school or university or by the spouse of a student if the spouse is advised, at the time that the spouse commences to perform the service, that the employment of the spouse to perform the service is provided under a program to provide financial assistance to the student by the school or university and that the employment is not covered by any program of unemployment insurance;

(u) service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at an institution that combines academic instruction with work experience if the service is an integral part of the program and the institution has certified that fact to the employer, except that this subsection (1)(u) does not apply to service performed in a program established for or on behalf of an employer or group of employers;

(v) service performed as an officer or member of the crew of a vessel on the navigable waters of the United States; or

(w) service performed by an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 1101(a)(H)(ii)(a) of the Immigration and Nationality Act.

(2) An individual found to be an independent contractor by the department under the terms of 39-71-401(3) is considered an independent contractor for the purposes of this chapter. An independent contractor is not precluded from filing a claim for benefits and receiving a determination pursuant to 39-51-2402.

(3) This section does not apply to a state or local governmental entity or a nonprofit organization defined under section 501(c)(3) of the Internal Revenue Code unless the service is excluded from employment as defined in the Federal Unemployment Tax Act."

Section 4. Section 39-51-301, MCA, is amended to read:

"39-51-301. Administration -- duties and powers of department. (1) It is the duty of the department to administer this chapter and it may adopt, amend, or rescind rules, to employ persons, make expenditures, require reports, make investigations, and take action as it considers necessary or suitable in administering this chapter.

1 (2) The department shall determine its own organization and methods of procedure in accordance
2 with the provisions of this chapter and shall have an official seal, which is judicially noticed.

3 (3) Whenever the department believes that a change in contribution or benefit rates will become
4 necessary to protect the solvency of the fund, it shall promptly inform the governor and the legislature
5 and make recommendations with respect to the change.

6 (4) The department and the board may issue subpoenas and compel testimony and the production
7 of evidence, including books and records, in regard to any investigation or proceeding under this chapter.

8 (5) The department shall delegate to the department of revenue duties associated with the
9 administration of unemployment insurance contributions and the employment security account so long
10 as the duties are carried out in conformity with the requirements of the program budget plan with the
11 United States department of labor. The delegated duties do not include oversight duties such as revenue
12 quality control, risk management, and trust fund management. The department of revenue must receive
13 funds from the department for the performance of the delegated duties. The department of revenue has
14 rulemaking authority with respect to any function or duty delegated to the department of revenue
15 pursuant to this section.

16 (6) Employees transferring from the department to the department of revenue as a result of a
17 delegation of duties in subsection (5) are entitled to all rights including those under 2-15-131, possessed
18 as a state officer or employee before transferring, including rights to tenure in office and of rank or grade,
19 rights to vacation and sick pay and leave, rights under any retirement or personnel plan or labor union
20 contract, rights to compensatory time earned, and any other rights under any law or administrative policy
21 including the State Employee Protection Act. Employees transferring must be considered internal
22 applicants by the department for recruitment purposes for the period from July 1, 1997, through June
23 30, 1998.

24 (7) The department of revenue shall succeed the department in its rights to property relating to
25 the delegation of duties in subsection (5) to the extent that is consistent with federal property transfer
26 policy. The property includes real property, records, office equipment, forms, supplies, and contracts other
27 than the program budget plan with the United States department of labor.

28 (8) (a) The delegation of duties in subsection (5) does not affect the validity of any pending
29 judicial or administrative proceeding.

30 (b) Appeals that were filed with the board of labor appeals or the department's hearings bureau

1 before July 1, 1997, must follow the procedures and processes in effect when the appeal was first taken.
2 An appeal that is filed on or after July 1, 1997, must be taken in accordance with the procedures and
3 processes in effect on the date the appeal is filed.

4 (c) The department of revenue must be substituted for the department and succeed to all audits,
5 determinations, and other actions that have not been appealed to the board of labor appeals or the
6 department's hearings bureau prior to July 1, 1997.

7 (9) The rights, privileges, and duties of the holders of bonds and other obligations issued and of
8 the parties to contracts, leases, indentures, and other transactions entered into before the delegation of
9 duties in subsection (5) remain in effect, and none of those rights, privileges, duties, covenants, or
10 agreements are impaired or diminished by reason of the delegation of duties. The department of revenue
11 is substituted for the department and, subject to the provisions of subsection (5), succeeds to the rights
12 and duties under the provisions of those bonds, contracts, leases, indentures, and other transactions. The
13 provisions of this subsection (9) do not apply to the program budget plan agreement between the
14 department and the United States department of labor."
15

16 Section 5. Section 39-51-302, MCA, is amended to read:

17 "39-51-302. Administrative rules. (1) The department may adopt procedural and substantive rules
18 necessary to implement this chapter.

19 (2) The department shall delegate rulemaking authority to the department of revenue with respect
20 to any function or duty delegated to the department of revenue pursuant to 39-51-301(5)."
21

22 Section 6. Section 39-51-2108, MCA, is amended to read:

23 "39-51-2108. Payment of benefits based on ~~service~~ services in public, charitable, or educational
24 organizations. (1) Benefits based on ~~service~~ services in employment defined in 39-51-203(5) and (6) are
25 payable in the same amount, on the same terms, and subject to the same conditions as ~~compensation~~
26 benefits payable on the basis of other ~~service~~ services subject to this chapter, except that benefits based
27 on ~~service~~ services in an instructional, research, or principal administrative capacity for an educational
28 institution may not be paid to an individual for any week of unemployment which begins during the period
29 between two successive academic years or during a similar period between two regular terms, whether
30 or not successive, or during a period of paid sabbatical leave provided for in the individual's contract if

1 the individual performs the services in the first of the academic years or terms and if the individual has
2 a contract or reasonable assurance of a contract to perform services services or a reasonable assurance
3 of performing services in any instructional, research, or principal administrative capacity for ~~the~~ any
4 educational institution ~~for both~~ in the second of the academic years or ~~both~~ terms.

5 (2) Benefits based on services in any other capacity for an educational institution must be denied
6 to any individual for any week which commences during a period between 2 successive academic years
7 or terms if the individual performs the services in the first of the academic years or terms and there is a
8 reasonable assurance that the individual will perform the services in the second of the academic years
9 or terms. If any individual is denied benefits and was not offered an opportunity to perform the ~~service~~
10 services for the educational institution for the second of the academic years or terms, the individual is
11 entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim
12 for benefits and for which benefits were denied solely by reason of the denial provided for in this section.

13 (3) Benefits based on services described in subsections (1) and (2) of this section must be denied
14 to any individual for any week that commences during an established and customary vacation period or
15 holiday recess if the individual performs the services in the period immediately before the vacation period
16 or holiday recess and there is reasonable assurance that the individual will perform the service in the
17 period immediately following the vacation period or holiday recess.

18 (4) Benefits based on services described in subsections (1) and (2) to an individual who performed
19 the services for an educational institution while in the employ of an educational service agency must be
20 denied as specified in subsections (1) through (3). The term "educational service agency" means a
21 governmental agency or governmental entity which is established and operated exclusively for the purpose
22 of providing the service to one or more educational institutions."
23

24 **Section 7.** Section 39-51-2302, MCA, is amended to read:

25 **"39-51-2302. Disqualification for leaving work without good cause.** (1) An individual must be
26 disqualified for benefits if the individual has left work without good cause attributable to the individual's
27 employment.

28 (2) The individual may not be disqualified if the individual leaves:

29 (a) employment because of personal illness or injury not associated with misconduct upon the
30 advice of a licensed and practicing physician and, after recovering from the illness or injury when recovery

1 is certified by a licensed and practicing physician, the individual returned to and offered service to the
2 individual's employer and the individual's regular or comparable suitable work was not available, as
3 determined by the department, provided the individual is otherwise eligible; or

4 (b) temporary work accepted during a period of unemployment caused by a lack of work with the
5 individual's regular employer if upon leaving the temporary work the individual returned immediately to
6 work for the individual's regular employer, provided that the individual is unemployed for nondisqualifying
7 reasons.

8 (3) To requalify for benefits, an individual shall perform services ~~other than self-employment~~ for
9 which remuneration is received equal to or in excess of six times the individual's weekly benefit amount
10 subsequent to the week in which the act causing the disqualification occurred unless the individual has
11 been in regular attendance at an educational institution accredited by the state of Montana for at least
12 3 consecutive months from the date of the individual's enrollment. The services must constitute
13 employment as defined in 39-51-203 and 39-51-204."

14
15 Section 8. Section 39-51-2303, MCA, is amended to read:

16 "39-51-2303. Disqualification for discharge due to misconduct. An individual ~~shall~~ must be
17 disqualified for benefits after being discharged:

18 (1) for misconduct connected with the individual's work or affecting the individual's employment
19 until the individual has performed services; ~~other than self-employment;~~

20 (a) for which remuneration is received equal to or in excess of eight times the individual's weekly
21 benefit amount subsequent to the week in which the act causing the disqualification occurred; and

22 (b) which constitute employment as defined in 39-51-203 and 39-51-204; or

23 (2) for gross misconduct connected with the individual's work or committed on the employer's
24 premises, as determined by the department, for a period of 52 weeks."

25
26 Section 9. Section 39-51-2304, MCA, is amended to read:

27 "39-51 2304. Disqualification for failure to apply for or to accept suitable work. (1) An individual
28 is disqualified for benefits if the individual fails without good cause either to apply for available and
29 suitable work when ~~so~~ directed to do so by the employment office or the department or to accept an offer
30 of suitable work which the individual is physically able and mentally qualified to perform or to return to

1 customary self-employment, if any, when ~~so~~ directed to do so by the department. ~~Such~~ The
2 disqualification continues for the week in which ~~such~~ the failure occurs and until the individual has
3 performed services, ~~other than self-employment~~, for which remuneration is received equal to or in excess
4 of six times that individual's weekly benefit amount subsequent to the ~~date~~ week the act causing the
5 disqualification occurred, with a reduction in the individual's maximum benefit amount equal to six times
6 the weekly benefit amount, as determined by the department, provided the individual has not left this
7 work under disqualifying circumstances. The services must constitute employment as defined in
8 39-51-203 and 39-51-204.

9 (2) In determining whether or not any work is suitable for an individual, the department shall
10 consider:

- 11 (a) the degree of risk involved to the individual's health, safety, and morals;
- 12 (b) the individual's physical fitness and prior training;
- 13 (c) the individual's experience and previous earnings;
- 14 (d) the individual's length of unemployment and prospects for securing local work in the
15 customary occupation; and
- 16 (e) the distance of the available work from the individual's residence.

17 (3) Notwithstanding any other provisions of this chapter, including subsection (4), no work may
18 be considered suitable and benefits may not be denied under this chapter to any otherwise eligible
19 individual for refusing to accept new work under any of the following conditions:

- 20 (a) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- 21 (b) if the wages, hours, or other conditions of the work offered are substantially less favorable
22 to the individual than those prevailing for similar work in the locality;
- 23 (c) if, as a condition of being employed, the individual would be required to join a company union
24 or to resign from or refrain from joining any bona fide labor organization.

25 (4) Subject to subsection (3), after 13 weeks of unemployment, suitable work is work that meets
26 the criteria in this section and that offers 75% of the individual's earnings in previous insured work in the
27 individual's customary occupation. No individual, however, is required to accept a job paying less than
28 the federal minimum wage."

29
30 **Section 10.** Section 39-51-3105, MCA, is amended to read:

1 **"39-51-3105. Assignment, pledge, or encumbrance of right to benefits void -- benefits exempt**
2 **from levy, execution, attachment, or other remedy for collection of debt -- exception.** Any assignment,
3 pledge, or encumbrance of any right to benefits that are or may become due or payable under this chapter
4 is void, and the rights to benefits are exempt from levy, execution, attachment, or any other remedy
5 provided for the collection of debt. Benefits received by an individual, as long as they are not mingled with
6 other funds of the recipient, are exempt from any remedy for the collection of all debts except as provided
7 in 39-51-2207, 39-51-2208, 39-51-3106, [section 1], and 39-51-3206. Any waiver of an exemption
8 provided for in this section is void."

9
10 Section 11. Section 39-51-3206, MCA, is amended to read:

11 **"39-51-3206. Collection of benefit overpayments.** A person who receives benefits not authorized
12 by this chapter shall repay to the department either directly or, as authorized by the department, by offset
13 of future benefits to which the claimant may be entitled, or by a combination of both methods, a sum
14 equal to the amount of the overpayment. A benefit offset may not exceed 50% of the weekly benefits
15 to which a claimant is entitled unless the claimant gives written consent, except in cases of theft or
16 fraud, when benefits may be offset by as much as 100% of the weekly benefits to which a claimant is
17 entitled. The sum is collectible in the manner provided in this chapter for the collection of past-due
18 contributions ~~unless the department finds that the benefits were received through no fault of the person~~
19 ~~and the recovery of the benefits would be against equity and good conscience.~~ The department may
20 waive the benefit overpayment if the department finds that the claimant did not conceal or misrepresent
21 material facts to obtain the overpaid benefits and that recovery of the benefit overpayment would cause
22 a long-term financial hardship on the claimant. An action for collection of overpaid benefits must be
23 brought within 5 years after the date of the overpayment. Notwithstanding any other provision of this
24 chapter, the department may recover an overpayment of benefits paid to any individual under the laws
25 of this state or another state or under an unemployment benefit program of the United States."

26
27 **NEW SECTION. Section 12. Codification instruction.** [Section 1] is intended to be codified as an
28 integral part of Title 39, chapter 51, part 31, and the provisions of Title 39, chapter 51, part 31, apply
29 to [section 1].
30

NEW SECTION. Section 13. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 14. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 15. Effective date. [This act] is effective July 1, 1999.

- END -

FISCAL NOTE

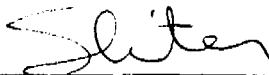
Bill #: HB0179

Title: Provide for withholding of
unemployment benefits for
federal tax liability

Primary

Sponsor: Paul Sliter

Status: As introduced





1-10-99

Sponsor signature

Date

Dave Lewis, Budget Director

Date

Fiscal Summary

FY2000
Difference

FY2001
Difference

Expenditures:

Unable to calculate fiscal impact

Yes No
X

Significant Local Gov. Impact

Yes No
X

Technical Concerns

X Included in the Executive Budget

X Significant Long-
Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. The department will deduct and withhold up to 15% from unemployment benefits to repay federal tax obligations. The amount to be withheld will be determined by the Internal Revenue Service. The costs for the program development will be reimbursed by the federal government and are unknown at this time.
2. There may be a minimal positive effect on the Unemployment Insurance (UI) trust fund balance as the criteria for wages used to requalify for benefits becomes more narrow. The specific fiscal impact cannot be calculated.
3. Section 11 allows a 100% offset of UI benefits to recover those benefits fraudulently obtained. The change may have a minimal positive impact on the UI trust fund. Total overpayment and penalties collected during FY 1998 were \$584,205. Fraud overpayments collected were \$108,008. Fraud offsets collected were \$25,614. Any additional amount of overpaid benefits collected would be returned to the UI Trust Fund. Fraud offsets collected are dependent on claimants continuing to file for benefits. Specific fiscal impact cannot be calculated.

HB 179

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By CHAIRMAN BRUCE SIMON, on January 12, 1999 at
8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 109, HB 140, HB 153, HB 171
(1/6/99), HB 179, 1/5/1999
Executive Action: HB 179, HB 171, HB 109, HB 140

HEARING ON HB 179

Opening Statement by Sponsor: Rep. Sliter, HD 76, introduced HB 179.

{Tape : 3; Side : B; Approx. Time Counter : 118 - 142}

Proponents' Testimony:

Jim Hill, Montana Dept of Labor

{Tape : 3; Side : B; Approx. Time Counter : 142 - 237}

Opponents' Testimony: None

Questions from Committee Members and Responses:

Reps. Pavlovich, Stovall, Bookout, Ewer, Brown, Juneau question witnesses.

{Tape : 3; Side : B; Approx. Time Counter : 237 - 396}

Closing by Sponsor: Rep. Sliter closed HB 179.

{Tape : 3; Side : B; Approx. Time Counter : 396 - 500}

EXECUTIVE ACTION ON HB 171

Motion/Vote: REP. MATTHEWS moved that HB 171 DO PASS. Motion carried unanimously.

{Tape : 4; Side : A; Approx. Time Counter : 0 - 12}

EXECUTIVE ACTION ON HB 109

Motion: REP. PAVLOVICH moved that HB 109 DO PASS.

{Tape : 4; Side : A; Approx. Time Counter : 12 - 17}

Motion/Vote: REP. PAVLOVICH moved that HB 109 BE AMENDED. Motion carried unanimously.

{Tape : 4; Side : A; Approx. Time Counter : 17 - 48}

Motion/Vote: REP. PAVLOVICH moved that HB 109 DO PASS AS AMENDED. Motion carried unanimously.

{Tape : 4; Side : A; Approx. Time Counter : 48 - 57}

EXECUTIVE ACTION ON HB 140

Motion: REP. PAVLOVICH moved that HB 140 DO PASS.

{Tape : 4; Side : A; Approx. Time Counter : 57 - 62}

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By **CHAIRMAN TOM KEATING**, on February 11, 1999 at
3:07 P.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Tom Keating, Chairman (R)
Sen. Fred Thomas, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Alvin Ellis (R)
Sen. Bob Keenan (R)
Sen. Walter McNutt (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Gilda Clancy, Committee Secretary
Eddy McClure, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 396 SB 387, 2/9/1999; HB
179, 2/1/1999

Executive Action: SB 387 SB 396 SB 218 SB 305 HB
179

Vote: Motion that THE AMENDMENT BE ADOPTED carried unanimously.

Vote: Motion that SB 387 DO PASS AS AMENDED carried unanimously.

EXECUTIVE ACTION ON SB 396

Motion: SEN. BARTLETT moved that SB 396 DO PASS.

Motion/Vote: SEN. BARTLETT moved that THE AMENDMENT BE ADOPTED.
Motion carried unanimously.

Discussion: SEN. ELLIS said he understood the principle behind the bill, however, he does not understand how it works. If the employees who get higher wages miss time they receive higher benefits.

SEN. COCCHIARELLA explained this applies only to the maximum of the average weekly wage.

Vote: Motion that SB 396 DO PASS AS AMENDED carried unanimously.

HEARING ON HB 179

Sponsor: REP. PAUL SLITER, HD 76, Flathead

Proponents: Jim Hill, Unemployment Insurance Division,
Department of Labor

Opponents: None.

Opening Statement by Sponsor:

REP. PAUL SLITER, HD 76, Flathead, stood on behalf of the Department of Labor. This allows the Department of Labor to comply with federal regulation which states we need to deduct as much as 15% of an unemployment benefit if there is an IRS tax liability to be paid off.

Proponents' Testimony:

Jim Hill, Division Administrator, Unemployment Insurance Division, Department of Labor, advised this bill is a

housekeeping bill which does three things. First, it conforms some state law to federal law, second, it cleans up some language for consistency and clarity, third, it puts some interpretation of statute into specific language. He explained parts of the bill.

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. ELLIS asked Jim Hill if the federal law requires the Department of Labor to make a buyer of a business negligent for the former business owner's unemployment insurance obligation.

Mr. Hill responded if an individual purchases a farm or agriculture entity which is subject to unemployment insurance, they would inherit that subjectivity.

SEN. ELLIS inquired if he had defaulted on payments in his business and sold it, would the buyer end up with the responsibility to pay this tax?

Mr. Hill responded 'no'.

CHAIRMAN KEATING asked on page 2, since section 2 is lined out is it still in the statute?

Mr. Hill alleged their original section 2 was struck by an amendment in the House, so they re-numbered the lines.

CHAIRMAN KEATING informed the Committee if this is lined out, it does not mean it is repealed.

Closing by Sponsor:

REP. SLITER closed the bill by thanking the Committee for a nice hearing.